THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 12

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL A. MCINTYRE and OLIVER K. WILDING

Appeal No. 1997-3889
Application 08/553,733

ON BRIEF

Before KIMLIN, OWENS and DELMENDO, Administrative Patent Judges.

KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-17, all the claims in the present application. Claim 1 is illustrative:

> 1. A process for reducing hydrocarbon content of halosilanes, the process comprising: contacting a mixture comprising a halosilane and a hydrocarbon with silica gel, thereby reducing the hydrocarbon content of the mixture.

The examiner relies upon the following references as evidence of obviousness:

Johnson et al. (Johnson)	4,344,841	Aug. 17, 1982
Bothe Almquist et al. (Bothe Almquist)	5,445,742	Aug. 29, 1995

Appealed claims 1-17 stand rejected under 35 U.S.C. § 103 as being unpatentable over Bothe Almquist in view of Johnson.

Upon careful consideration of the opposing arguments presented on appeal, we will not sustain the examiner's rejection.

Bothe Almquist, like appellants, discloses a process of reducing the hydrocarbon content of a mixture comprising a halosilane and a hydrocarbon. However, rather than utilizing the presently claimed silica gel as the adsorbent for hydrocarbons, Bothe Almquist employs activated carbons, high silica zeolites and synthetic carbonaceous materials. Recognizing this deficiency in Bothe Almquist, the examiner relies upon Johnson for showing "that silica gel can be used to adsorb hydrocarbon contaminates from a feed mixture" (page

3 of answer). In response to appellants' argument that there is no teaching or suggestion in the cited references that silica gel preferentially adsorbs hydrocarbons over a halosilane, the examiner cites the disclosure of Bothe Almquist that the hydrocarbon adsorbent is generally characterized by the following properties: (1) hydro-phobic, (2) organophilic, (3) neutral surface, and (4) no polarizable pendent groups. The examiner concludes that the stated criteria for the adsorbent material disclosed by Bothe Almquist "is ample teaching to utilize the silica gel of Johnson et al. in the process of Bothe Almquist et al." (page 4 of answer).

The flaw in the examiner's reasoning is that it is well known in the art that silica gel is a hydrophilic desiccant that is used as a drying agent for adsorbing water.

Consequently, since Bothe Almquist teaches that the adsorbent for hydrocarbons in a mixture comprising a halosilane should be hydrophobic and organophilic, we cannot agree with the examiner that the reference would have suggested the use of silica gel, a known hydrophilic desiccant, to one of ordinary skill in the art.

Accordingly, based on the foregoing, the examiner's decision rejecting the appealed claims is reversed.

REVERSED

EDWARD C. KIMLIN	)	
Administrative Patent Judge	)	
	)	
	)	
	)	BOARD OF PATENT
TERRY J. OWENS	)	APPEALS AND
Administrative Patent Judge	)	INTERFERENCES

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)
ROMULO DELMENDO)
Administrative Patent Judge)

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